

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
)
HAWAII ELECTRIC LIGHT COMPANY, INC.) DOCKET NO. 2017-0122
)
For Approval of a Power Purchase)
Agreement for Renewable Dispatchable)
Firm Energy and Capacity.)

ORDER NO. **37852**

REOPENING THE DOCKET

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)	
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HAWAII ELECTRIC LIGHT COMPANY, INC.)	DOCKET NO. 2017-0122
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_____)	

REOPENING THE DOCKET

By this Order,¹ and pursuant to the Hawaii Supreme Court's ("Court") decision in Matter of Hawaii Elec. Light Co., Inc., No. SCOT-20-0000569, filed May 24, 2021 ("HELCO II"), the Public Utilities Commission ("Commission"), reopens this docket for further proceedings to review the Amended and Restated

¹The Parties to this docket are HAWAII ELECTRIC LIGHT COMPANY, INC. ("HELCO"), HU HONUA BIOENERGY, LLC ("Hu Honua") (collectively, HELCO and Hu Honua are referred to as "Applicants"), and the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate"). The Commission has also granted Participant status to LIFE OF THE LAND ("LOL"), TAWHIRI POWER, LLC ("Tawhiri"), and HAMAKUA ENERGY, LLC ("Hamakua"). See Order No. 34554, "Opening a Docket to Review and Adjudicate Hawaii Electric Light Company, Inc.'s Letter Request for Approval of Amended and Restated Power Purchase Agreement, Filed in Docket No. 2012-0212 on May 9, 2017," filed May 17, 2017 ("Order No. 34554").

Power Purchase Agreement between HELCO and Hu Honua ("Amended PPA"),² consistent with the HELCO II.

This Order sets forth the following to guide this proceeding on remand, which are discussed in further detail below:

1. If HELCO deems it necessary, it may supplement the Amended PPA with any updated information necessary for the Commission, other Parties, and Participants to review the request set forth therein by July 12, 2021;

2. The Commission establishes a new statement of issues intended to address the Court's ruling in HELCO II, as well as the Court's prior decision in No. SCOT-17-0000630, filed May 10, 2019 ("HELCO I"),³ as applicable;

3. Clarifies the scope of participation for Participants on remand;

4. Establishes a procedural schedule to govern this proceeding on remand;

5. Establishes a process for addressing public comments filed in this proceeding on remand; and

6. Establishes other procedural conditions to facilitate and expedite this proceeding on remand.

²"Hawaii Electric Light Company, Inc.'s Amended and Restated Power Purchase Agreement dated May 5, 2017," filed May 9, 2017.

³Matter of Hawaii Elec. Light Co., Inc., 145 Hawaii 1, 445 P.3d 673 (2019).

I.

BACKGROUND

On July 28, 2017, the Commission issued Decision and Order No. 37426, approving HELCO's request for a waiver from the Commission's competitive bidding framework ("Framework") for the Amended PPA, under which HELCO would purchase electricity from a biomass project to be developed by Hu Honua ("the Project").

LOL appealed Decision and Order No. 34726 to the Court, where it was assigned Case No. SCOT-17-0000630.

On May 10, 2019, the Court issued HELCO I, which vacated Decision and Order No. 34726 and remanded the matter back to the Commission for further proceedings.⁴

On June 20, 2019, the Commission issued Order No. 36382, reopening this docket to address the Court's remand instructions in HELCO I.⁵ In so doing, the Commission re-affirmed the previously established statement of issues, but added a new issue to explicitly address the impact of greenhouse gas ("GHG") emissions associated with the Project.⁶

On July 9, 2020, the Commission issued Order No. 37205, which, in relevant part, denied HELCO's request for a waiver from

⁴See HELCO I, 145 Hawaii at 28, 445 P.3d at 700.

⁵Order No. 36382, "Reopening Docket," filed June 20, 2019 ("Order No. 36382").

⁶Order No. 36382 at 9.

the Framework for the Amended PPA.⁷ In so doing, the Commission determined that HELCO's request for a waiver from the Framework was a threshold issue, and the Commission's denial mooted consideration of the merits of the Amended PPA, including the impacts of GHG emissions associated with the Project.⁸ The Commission also noted that various pending procedural motions were also mooted as a result of the denial of HELCO's request for a waiver.⁹

On July 20, 2020, Hu Honua filed a motion, and related filings, seeking reconsideration of Order No. 37205.¹⁰

On September 9, 2020, the Commission issued Order No. 37306 ("Order No. 37306"), which denied Hu Honua's motion for reconsideration of Order No. 37205.¹¹ In so doing,

⁷Order No. 37205, "Denying Hawaii Electric Light Company, Inc.'s Request for a Waiver and Dismissing Letter Request for Approval of Amended and Restated Power Purchase Agreement," filed July 9, 2020 ("Order No. 37205").

⁸Order No. 37205 at 43 and 44.

⁹Order No. 37205 at 43-44.

¹⁰"Hu Honua Bioenergy, LLC's Motion for Reconsideration of Order No. 37205, Issued July 9, 2020; Memorandum in Support; Affidavit of Jon Miyata; Affidavit of Eli Katz; Exhibit 1; and Certificate of Service," filed July 20, 2020. See also, "Hu Honua Bioenergy, LLC's Supplemental Memorandum in Support of Hu Honua Bioenergy LLC's Motion for Reconsideration of Order No. 37205, Issued July 9, 2020; Affidavit of Jonathan Jacobs; Affidavit of Bruce Plasch; and Certificate of Service," filed July 20, 2020.

¹¹Order No. 37205, "(1) Denying Hu Honua Bioenergy, LLC's Motion for Reconsideration of Order No. 37205, Issued July 8, 2020,

the Commission declared this proceeding closed, unless ordered otherwise by the Commission.¹²

On September 16, 2020, Hu Honua appealed the Commission's decision in Order No. 37205 to the Court, where it was assigned Case No. SCOT-20-0000569.

Notwithstanding the closing of this docket and notice of Hu Honua's appeal, various Parties and Participants continued to submit filings in this docket, prompting the Commission to issue Order No. 37335 on October 1, 2020, in which the Commission clarified that this docket was closed and, in the interests of transmitting the docket record to the Court for SCOT-20-0000569, the Commission would not be accepting any further filings.¹³

On May 24, 2021, Court issued HELCO II, in which the Court found that the Commission had erred in its reading of HELCO I, which, the Court stated, focused on the need to explicitly consider GHG emissions associated with the Project in determining whether to approve the Amended PPA, and "did not disturb, modify, or vacate the 2017 waiver."¹⁴ Consequently, the Court concluded

Filed July 20, 2020; and (2) Addressing Related Procedural Motions," filed September 9, 2020.

¹²Order No. 37306 at 65.

¹³ Order No. 37335, "Addressing Outstanding Issues and Closing the Docket," filed October 1, 2020 ("Order No. 37335").

¹⁴HELCO II at 6-7.

that “[b]ecause HELCO I had no impact on the 2017 waiver, the waiver was still in effect when the [Commission] re-opened Docket No. 2017-0122,” and thus, “was still in effect when the [Commission] issued Order No. 37205.”¹⁵ In sum, the Court clarified:

We vacate [Commission] Order No. 37205 and 37306. As a result, the parties are fixed in the same position they were in following HELCO I: the [Commission’s] 2017 approval of the Amended PPA remains vacated, the 2017 waiver remains valid and in force, and the [Commission], in considering the Amended PPA, remains obligated to follow the instructions we provided in HELCO I. We thus remand this case to the [Commission] for a hearing on the Amended PPA that ‘complies with procedural due process’ as well as the requirements of HRS Chapter 269.”¹⁶

On June 23, 2021, the Court issued its Judgment on Appeal for SCOT-20-0000569, vacating Order Nos. 37205 and 37306 and remanding this matter back to the Commission.

II.

DISCUSSION

Pursuant to the Court’s Judgment on Appeal, officially remanding this matter back to the Commission, the Commission hereby re-opens this docket to address the Court’s instructions in HELCO II. To facilitate this

¹⁵HELCO II at 8.

¹⁶HELCO II at 8-9.

re-opened proceeding, the Commission addresses the following procedural matters.

A.

HELCO's Supplement to the Amended PPA, If Necessary

If HELCO deems it necessary, it may supplement the Amended PPA with any updated information necessary for the Commission, Parties, and Participants to review HELCO's requests regarding the Amended PPA. Any such supplement shall be filed in the docket by July 12, 2021.

B.

Establishing A Statement of Issues on Remand

The Commission establishes the following statement of issues to govern its review of the Amended PPA on remand following

HELCO II:

1. What are the long-term environmental and public health costs of reliance on energy produced at the proposed facility?
 - a. What is the potential for increased air pollution due to GHG emissions directly attributed the Project, as well as from earlier stages in the production process?
2. What are the GHG emissions that would result from approving the Amended PPA?
3. Whether the cost of energy under the Amended PPA is reasonable in light of the potential for GHG emissions.

4. Whether the terms of the Amended PPA are prudent and in the public interest, in light of the Amended PPA's hidden and long-term consequences.

In establishing this statement of issues, the Commission is mindful of the Court's direction in HELCO II, including, inter alia, that "the [Commission's] 2017 approval of the Amended PPA remains vacated, the 2017 waiver remains valid and in force, and the [Commission] in considering the Amended PPA, remains obligated to follow the instructions we provided in HELCO I."¹⁷

Turning to HELCO I, the Commission notes that in vacating Decision and Order No. 37426, the Court held that "the 2017 D&O does not reflect that the [Commission] explicitly considered the reduction of GHG emissions in approving the PPA" In HELCO I, the Court referred to its earlier decision in In re Maui Elec. Co., Ltd., 141 Hawaii 249, 408 P.3d 1 (2017) ("In re MECO"), where the Court had previously ruled in the context of reviewing another power purchase agreement, that HRS § 269-6(b) required the Commission "to consider the hidden and long-term costs of energy produced under the Agreement, including the potential for increased air pollution due to GHG emissions."¹⁸ Applied to the Amended PPA in this proceeding, the Court clarified that

¹⁷HELCO II at 8.

¹⁸HELCO I, 145 Hawaii at 24, 445 P.3d at 696.

"[t]hese costs include 'the potential for increased air pollution as a result of GHG emissions' directly attributable to energy generation at the facility, as well as GHG emissions produced at earlier stages in the production process, such as fuel production and transportation."¹⁹

The Court further held:

In order to comply with statutory and constitutional requirements, the [Commission's] post-remand hearing must afford LOL an opportunity to meaningfully address the impacts of approving the Amended PPA on LOL's members' right to a clean and healthful environment, as defined by HRS Chapter 269. The hearing must include express consideration of GHG emissions that would result from approving the Amended PPA, whether the cost of energy under the Amended PPA is reasonable in light of the potential for GHG emissions, and whether the terms of the Amended PPA are prudent and in the public interest, in light of its potential hidden and long-term consequences.²⁰

Consequently, in establishing the statement of issues on remand, the Commission has focused on the consideration of GHG emissions as they relate to the Amended PPA and the Project,

¹⁹HELCO I, 145 Hawaii at 24, 445 P.3d at 696 (citing In re MECO, 141 Hawaii at 263, 408 P.3d at 15) (parenthetical omitted).

²⁰HELCO I, 145 Hawaii at 26, 445 P.3d at 698 (citing In re MECO, 141 Hawaii at 269, 408 P.3d at 21); see also, HELCO II at 9 (citing the same from HELCO I).

The Commission notes that HRS § 269-6(b) was amended by Act 82, which was signed by Governor Ige on June 24, 2021. For purposes of this docket, the Commission does not believe these amendments alter the basis for the Court's interpretation of the Commission's statutory obligations under HRS § 269-6(b), as previously set forth in In re MECO, HELCO I, and HELCO II.

as this was the focus of the Court's holding in HELCO I.²¹ The Commission notes that the statement of issues mirrors what was previously "Issue No. 4" established in Order No. 36382, following the remand from HELCO I; however, in light of the Court's express guidance, the Commission has decided to make each of these considerations a separate issue, to ensure that they are "explicitly considered" during this remanded proceeding.²²

C.

Clarifying Participants' Scope of Participation on Remand

Previously, in HELCO I, the Court held that:

[O]n remand, it is within the [Commission's] discretion to determine the extent of LOL's participation in the proceeding, . . . provided that the [Commission] complies with its statutory and constitutional obligations to consider the reduction of GHG emissions and to allow LOL a meaningful opportunity to be heard regarding the Amended PPA's impact on its right to a clean and healthful environment, as defined by HRS Chapter 269.²³

²¹See, HELCO II at 6-7 (citation omitted).

²²C.f., HELCO I, 145 Hawaii at 25, 445 P.3d at 697 ("On remand, the [Commission] shall give explicit consideration to the reduction of GHG emissions in determining whether to approve the Amended PPA, and make the findings necessary for this court to determine whether the [Commission] satisfied its obligations under HRS § 269-6(b).") (emphasis in the original); see also, HELCO II at 7 (quoting the same).

²³HELCO I, 145 Hawaii at 28, 445 P.3d at 700.

Concomitantly, on remand following HELCO I, the Commission found that “[g]iven the interconnectedness of the issues in this docket, including new Issue No. 4, . . . the [C]ommission finds that . . . it would be beneficial for all Parties and Participants to address all issues set forth for this docket.”²⁴

Similarly, here, in light of the new statement of issues, which all focus on GHG emissions associated with the Project and the Commission’s statutory obligations under HRS Chapter 269, the Commission believes it would be beneficial for all Parties and Participants to address all issues set forth for this proceeding on remand. Accordingly, to avoid confusion as to the scope of participation for Participants on remand following HELCO II, the Commission clarifies that Participants’ respective scopes of participation, as originally set forth in Order No. 34597, and as modified by Order No. 36380, are further modified by this Order such that all Participants are permitted to participate on all issues as set forth in this Order.

²⁴Order No. 36380 at 13 (emphasis in the original).

D.

Establishing a Procedural Schedule on Remand

The Commission establishes the following procedural schedule to govern this proceeding on remand:

Procedural Event	Deadline
Opportunity for HELCO to supplement the Amended PPA	July 12, 2021
Rolling IRs among Parties and Participants	Beginning as of the date of this Order; ends August 2, 2021
Filing deadline for responses to Information Requests ("IRs")	Two weeks after receiving IR; no later than August 16, 2021
Filing Deadline for Prehearing Testimonies and Exhibits	September 16, 2021
Filing Deadline for IRs from Parties and Participants on Prehearing Testimonies and Exhibits	October 7, 2021
Filing Deadline for Responses to IRs on Prehearing Testimonies and Exhibits	October 21, 2021
Filing Deadline for Supplemental IRs ("SIRs") from Parties and Participants on Prehearing Testimonies and Exhibits	November 4, 2021
Filing Deadline for Responses to SIRs on Prehearing Testimonies and Exhibits	November 18, 2021
Filing Deadline for Prehearing Statements of Position *to be used in lieu of opening remarks and/or direct examination at evidentiary hearing	December 9, 2021

Procedural Event	Deadline
Filing Deadline for witness lists and hearing exhibits	December 16, 2021
Filing Deadline for prehearing motions, if any	December 21, 2021
Prehearing Conference	January 4, 2022
Evidentiary Hearing	To be scheduled by the Commission, but currently expected to be the week of January 10, 2021
Post-Hearing Briefs	3 weeks after the filing of hearing transcript
Decision and Order	Subsequent to Post-Hearing Briefs

In establishing this procedural schedule, the Commission is mindful of the Court's directives to "afford LOL an opportunity to meaningfully address the impacts of approving the Amended PPA on LOL's members' right to a clean and healthful environment, as defined by HRS Chapter 269."²⁵ As explained by the Court in HELCO I, procedural due process involves "the right to submit evidence and argument" on the Project's impact on LOL's members' constitutional right to a clean and healthful environment,

²⁵HELCO I, 145 Hawaii at 26, 445 P.3d at 698; see also, HELCO II at 9 (quoting the same); and 6-7 ("HELCO I focused on ensuring that the [Commission] complied with its statutory and constitutional obligations and respected LOL's due process rights in connection with the [Commission's] consideration of the Amended PPA.") (emphasis in the original).

and requires "an opportunity to be heard at a meaningful time and in a meaningful manner" ²⁶ The procedural schedule established above is intended to provide LOL, as well as other Parties and Participants, with a meaningful opportunity to develop the record and set forth a position on the GHG emissions impact of the Project and how it may influence whether the Amended PPA should be approved.

Additionally, the Commission is likewise cognizant of the Court's instructions that the Commission "give explicit consideration to the reduction of GHG emissions in determining whether to approve the Amended PPA, and make the findings necessary for this court to determine whether the [Commission] satisfied its obligations under HRS § 269-6(b)." ²⁷ Concomitantly, the procedural schedule on remand is also intended to provide the Commission with a reasonable opportunity to analyze and develop the record such that it can make explicit findings and conclusions consonant with the Court's directives to allow the Court to "track the steps by

²⁶HELCO I, 145 Hawaii at 25, 445 P.3d at 697 (citing In re MECO, 141 Hawaii at 269-70, 408 P.3d at 21-22).

²⁷HELCO I, 145 Hawaii at 25, 445 P.3d at 697 (emphasis in the original); see also, id. at 23-24, 445 P.3d at 695-96 (holding that recitation of HELCO's representations about the Project's estimated fuel savings and contributions to the State's Renewable Portfolio Standards did not constitute "express findings or conclusions regarding the [Project's] GHG emissions.").

which the [Commission] reached its decision”²⁸ and “determine whether the [Commission] satisfied its obligations under HRS § 269-6(b).”²⁹

E.

Concerns Regarding the Use of Unauthorized Email Accounts

On or about September 1, 2020, the Commission became aware that a number of public comments that had been submitted in this docket were not authorized by their accountholders.³⁰ In response, the Commission sealed from public view all public comments submitted in this docket from September 1, 2020; however, all subsequently received public comments, while sealed, were still maintained as part of the record.³¹ This incident prompted a series of accusations between Hu Honua and LOL regarding who might be responsible for the unauthorized use of email accounts.

²⁸HELCO I, 145 Hawaii at 24, 445 P.3d at 696 (citing Kauai Springs, Inc. v. Planning Comm’n of Cty. of Kauai, 133 Hawaii 141, 164, 324 P.3d 951, 974 (2014)).

²⁹HELCO I, 145 Hawaii at 25, 445 P.3d at 697.

³⁰See Order No. 37335 at 3-8.

³¹Order No. 37335 at 3-4.

As a preliminary matter, the Commission affirms that any claims by and between Hu Honua and LOL relating to legal action over this matter (e.g., civil litigation) are beyond the scope of this proceeding.³² The Commission's priority on this matter has been, and remains, the protection of the privacy of those accountholders whose emails were used without proper authorization.³³ Accordingly, the Commission will continue to keep these specific emails redacted; however, they will remain as part of the docket record.

In light of the above, to address subsequent public comments that may be filed in this docket on remand, the Commission will adopt the following process for receiving and publishing public comments: upon filing, public comments will be time-stamped, but held for a period of one week before being uploaded to the Commission's Document Management System ("DMS") website.³⁴ This holding period is intended to provide a reasonable amount of time for the Commission's standard confirmation email acknowledging receipt of the filing to be sent to the email account

³²See, Order No. 37306 at 62-63 n.126.

³³See Order No. 37306 at 62-63 n.126; and Order No. 37335 at 10-11.

³⁴In the interest of transparency, the Commission also intends to shortly file any public comments that have been received while this docket was closed in this docket.

that submitted the public comment and for the accountholder to notify the Commission if she or he believes their account has been used without their authorization before the Commission makes it publicly available on the DMS website. In the event the Commission is notified that an email account has been used without authorization, that public comment will be sealed, but will be incorporated as part of the official docket record. If it appears that the unauthorized use of email accounts continues to be an issue in this docket, the Commission may modify this policy to seal all incoming public comments (although, continuing to incorporate them as part of the record).

This process is intended to strike a balance between protecting the privacy of accountholders who, to no fault of their own, may have had their email accounts used without their permission, and the desire to maintain transparency during this proceeding. As noted above, the Commission reserves the authority to modify this process as circumstances may warrant.

F.

Miscellaneous Matters to Facilitate and
Expedite the Orderly Conduct of these Proceedings

1.

Matters Previously Entered into the Record

The Commission affirms that the record developed in this proceeding to date, including the record prior to HELCO I and

following HELCO I and leading up to HELCO II, constitutes the record in this proceeding and may be referenced as such. That being said, the Commission calls to the Parties' and Participants' attention that the statement of issues for this remanded portion of the proceeding has been modified from prior versions, and that current reliance on any previously-filed material must be relevant to this remanded proceeding's modified scope.

In particular, the Commission is aware that the Parties and Participants have previously submitted various information pertaining to the GHG emissions associated with the Project as part of the remanded proceedings following HELCO I. A Party or Participant may re-submit prior relevant testimony or exhibits in response to the statement of issues and procedural schedule set forth in this Order; however, the Commission notes that the statement of issues for this proceeding is more detailed than the prior "Issue No. 4" set forth in Order No. 36382, and cautions the Parties and Participants that additional and/or supplemental information may be required to satisfactorily address this proceeding's statement of issues as set forth in this Order. Accordingly, the Commission encourages the Parties and Participants to take advantage of the opportunities provided in

the procedural schedule to fully develop their position in the record to the best of their abilities.³⁵

2.

Information Requests

To the extent practical, the Parties and Participants will cooperate by: (1) exchanging IRs and responses as they become available; and (2) resolving questions regarding IRs and responses informally to attempt to work out problems with respect to understanding the scope or meaning of IRs, or with respect to the availability of information. If a Party/Participant is unable to provide the information requested within the prescribed time period, they should so indicate to the inquiring Party/Participant as soon as possible. The Parties/Participant shall then endeavor to agree upon a later date for submission of the requested information.

In lieu of responses to IRs that would require the reproduction of voluminous documents or materials (e.g., documents over 50 pages), the documents or materials may be provided on a readily usable electronic medium (e.g., CD-ROM, DVD,

³⁵Additionally, to the extent a Party or Participant believes that the amendments to HRS § 269-6 effectuated by Act 82 warrant consideration, this procedural schedule offers an opportunity to make this case.

Dropbox, etc.).³⁶ The responding Party/Participant shall, in lieu of production of a document in the public record, include in its response to the IR an identification of the document with reasonable specificity sufficient to enable the requesting Party/Participant to locate and copy the document. Additionally, a Party/Participant shall not be required, in a response to an IR, to make computations, compute ratios, reclassify, trend, calculate, or otherwise rework data contained in its files or records, unless so ordered by the Commission.

A Party/Participant may object to responding to an information request that it deems to be irrelevant, immaterial, unduly burdensome, onerous or repetitious, or where the response contains information claimed to be privileged or subject to protection (restricted information). If a Party/Participant claims that information requested is privileged, and withholds production of all or a portion of such information, the Party/Participant shall: (1) provide information reasonably sufficient to identify the privileged information withheld from the response, without disclosing the privileged information; (2) state the basis for withholding the information (including,

³⁶As noted below, in light of the COVID-19 pandemic currently affecting the State, the Commission has implemented emergency filings procedures which provide, in relevant part, that service of filed documents shall be accomplished electronically, for the time being. See Section II.F.4. below.

but not limited to, the specific privilege application or protection claimed for the privileged information and the specific harm that would befall the Party/Participant if the information were disclosed); and (3) state whether the Party/Participant is willing to provide the confidential information pursuant to Protective Order No. 34555, filed May 18, 2017, as modified by Order No. 34706, filed July 21, 2017.³⁷

A Party/Participant seeking production of documents notwithstanding a Party objection may file a motion to compel production with the Commission.

3.

Matter of Public Record

In order to provide a means to reduce unnecessary reproduction of documents and to facilitate these proceedings, identified matters of public record, such as reports that have been filed with the Commission, published decisions of this or other commissions, published scientific or economic statistical data, material and textbooks, technical or industrial journals relating to electric utility matters, and specified parts of the record in previous Commission dockets, shall be admissible in this

³⁷Protective Order No. 34555, filed May 18, 2017; and Order No. 34706, "Modifying Protective Order No. 34555, Filed on May 18, 2017," filed July 21, 2017.

proceeding without the necessity of reproducing each document; provided that the document to be admitted is clearly identified by reference to the place of publication, file or docket number, and the identified document is available for inspection; and further provided that any Party/Participant has the right to explain, qualify, or conduct examination with respect to the identified document. The Commission can rule on whether the identified document can be admitted into evidence when a Party/Participant proffers such document for admission as evidence in this case.

The Parties and Participants may enter into stipulations that such documents, or any portion of such documents, may be introduced into evidence in this case, subject to Commission approval.

4.

Copies of Filings, Information Requests, Responses to
Information Requests, and Statements of Position

Pursuant to Order No. 37043, filed March 13, 2020 (Non-Docketed), service of all documents filed in this proceeding shall be accomplished electronically. Service by the Parties/Participant shall be by email to their designated representatives. Service by the Commission shall be effectuated

through the Commission's DMS electronic Distribution List.³⁸ The foregoing electronic service procedure shall continue until such time as Order No. 37043 has been terminated or modified, in which case the Parties/Participants will then comply with HAR §§ 16-601-18 and 16-601-21(d), as may be modified by an amended or superseding Commission order to Order No. 37043, or as otherwise agreed to by the Parties/Participants, subject to Commission approval.

The Parties/Participants shall use Microsoft Word and/or Excel as the standard program format for filings in this docket. The Parties/Participants agree to provide any documents created in their native file format (such as Excel), if so requested. However, if workpapers, documentation, or exhibits attached to any filing are not readily available in an electronic format, a Party/Participant shall not be required to convert such workpapers, documentation, or exhibits into an electronic format. Also, existing documents produced in response to requests need not be converted to Microsoft Word and/or Excel, as long as the applicable format is identified.

³⁸See Order No. 37043, "Setting Forth Public Utilities Commission Emergency Filing and Service Procedures Related to COVID-19," filed March 13, 2020 (non-docketed), available at: <https://dms.puc.hawaii.gov/dms/DocumentViewer?pid=A1001001A20C13B33922H00287>.

5.

General

These procedures are consistent with ensuring the orderly conduct of this Docket. This Order shall control the subsequent course of this proceeding, unless modified by the Parties in writing and approved by the Commission, or upon the Commission's own motion.

III.

ORDERS

THE COMMISSION ORDERS:

1. This docket is re-opened pursuant to the Hawaii Supreme Court's opinion in HELCO II and Final Judgment in SCOT-20-0000569.

2. If HELCO deems it necessary, it may supplement the Amended PPA with any updated information necessary for the Commission, other Parties, and Participants to review the request set forth therein by July 12, 2021.

3. A new statement of issues to govern this re-opened proceeding is established, as set forth above.

4. The scope of Participants' participation during this re-opened proceeding is clarified, as set forth above.

5. A new procedural schedule and related procedural conditions to help govern this re-opened proceeding are established, as set forth above.

6. A process for addressing public comments filed in this re-opened proceeding is established, as set forth above.

DONE at Honolulu, Hawaii JUNE 30, 2021.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By James P. Griffin
James P. Griffin, Chair

By Jennifer M. Potter
Jennifer M. Potter, Commissioner

By Leodoloff R. Asuncion, Jr.
Leodoloff R. Asuncion, Jr., Commissioner

APPROVED AS TO FORM:

Mark Kaetsu
Mark Kaetsu
Commission Counsel

2017-0122.ljk

CERTIFICATE OF SERVICE

Pursuant to Order No. 37043, the foregoing order was served on the date it was uploaded to the Public Utilities Commission's Document Management System and served through the Document Management System's electronic Distribution List.

FILED

2021 Jun 30 AM 11:10

PUBLIC UTILITIES
COMMISSION

The foregoing document was electronically filed with the State of Hawaii Public Utilities Commission's Document Management System (DMS).